

MARCH 17, 2011

FOR IMMEDIATE RELEASE

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STATEMENT OF THE COURT, BUT IS
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IN THE SUPREME COURT OF THE STATE OF IDAHO

Docket No. 37308-2010

**CLEAR SPRINGS FOODS, INC., and BLUE)
LAKES TROUT FARM, INC.,)**

Jerome, December 2010 Term

Petitioners/Cross-Appellants,)

2011 Opinion No. 32

v.)

Filed: March 17, 2011

**GARY SPACKMAN, in his capacity as)
Director of the Idaho Department of Water)
Resources, and the IDAHO DEPARTMENT)
OF WATER RESCOURCES,)**

Stephen W. Kenyon, Clerk

Respondents,)

and)

**IDAHO GROUND WATER)
APPROPRIATORS, INC.; NORTH SNAKE)
GROUND WATER DISTRICT; and MAGIC)
VALLEY GROUND WATER DISTRICT,)**

Cross-Petitioners/Appellants,)

and)

**IDAHO DAIRYMEN'S ASSOCIATION,)
INC., and RANGEN, INC.,)**

Intervenors.)

Appeal from the District Court of the Fifth Judicial District of the State of Idaho, in and for Gooding County. The Hon. John M. Melanson, District Judge.

The judgment of the district court is affirmed.

Racine Olson Nye Budge & Bailey, Pocatello, for appellants. Thomas J. Budge argued.

Barker Rosholt & Simpson, LLP, Twin Falls, for cross-appellant Clear Springs Foods, Inc. John K. Simpson argued.

Ringert Law, Chartered, Twin Falls, for cross-appellant Blue Lakes Trout Farm, Inc. Daniel V. Steenson argued.

Hon. Lawrence G. Wasden, Attorney General, Boise, for respondents. Christopher M. Bromley argued.

In a unanimous decision released today, the Idaho Supreme Court affirmed the judgment of the district court, protecting senior decreed water rights in the Thousand Springs region.

Clear Springs Foods, Inc., and Blue Lakes Trout Farm, Inc. (collectively, “Spring Users”) have decreed water rights in certain springs in the Thousand Springs region of the Snake River Plain. Appellants Idaho Ground Water Appropriators, Inc., North Snake Ground Water District, and Magic Valley Ground Water District (collectively “Groundwater Users”) are users of the Eastern Snake River Plain Aquifer (“Aquifer”) ground water across southern Idaho. Groundwater Users pump groundwater from the Aquifer, primarily for irrigation purposes. The decreed ground water rights of Groundwater Users are junior to the surface water rights of Spring Users.

In the spring of 2005, Spring Users sent letters to the Director of the Idaho Department of Water Resources requesting that the Director administer water rights. The director treated these letters as calls for delivery under the Department’s Rules for Conjunctive Management of Ground and Surface Water Resources. The Director found that the Groundwater Users’ diversions were materially injuring Spring Users’ senior surface water rights and issued curtailment orders. An administrative hearing was held in November 2007 and the hearing officer approved the curtailment orders. The Director thereafter entered a final order, based on the hearing officer’s recommendations but substantially affirming the original curtailment orders. On judicial review of the orders, District Court affirmed the Director’s findings. The Groundwater Users appealed to the Idaho Supreme Court, arguing that the Spring Users should be denied their requests for water based on the economic impact that would result from curtailment.

On appeal, the Idaho Supreme Court held that the statutory and constitutional law of Idaho protects water according to the priority of appropriation. The Court rejected the Groundwater Users’ arguments regarding economic impact. The Court found that the optimum development of water resources is protected by Idaho law by requiring the means of diversion to be reasonable, and that Groundwater Users did not challenge the reasonableness of Spring Users’ appropriations on appeal. The Court also construed the Swan Falls Agreement and the application of the Department of Water Resources’ ground water model. The Idaho Supreme Court affirmed the District Court’s judgment, upholding the orders of the Department of Water Resources.